

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

**KRYSTAL BELL, as Personal Representative of
JACOB ADAM MITSCHLEN, Deceased,**

Plaintiff,

vs.

Civ. No. 11-907 JCH/ACT

**BYRON "TREY" ECONOMIDY III,
in his individual capacity, and
CITY OF ALBUQUERQUE,**

Defendants.

SECOND ORDER TO SHOW CAUSE

THIS MATTER came before the Court for a hearing on the Court's Order to Show Cause (Doc. No. 33), at 1:30 p.m. on August 15, 2012. Arne Leonard appeared on behalf of the Plaintiff and no one appeared on behalf of the Defendants.

This history behind the original Order to Show Cause is as follows:

On February 22, 2012, the Court entered its Order Setting Rule 16 Settlement Conference (Doc. No. 22), for 9:30 a.m. on August 2, 2012. On March 23, 2012, the Court entered an Order Rescheduling Rule 16 Settlement Conference (Doc. No. 24) for 9:30 a.m. on August 9, 2012. Counsel were instructed to refer to the original Order Setting Rule 16 Settlement Conference for all instructions and deadlines. Pursuant to the original Order, counsel were to submit position papers within ten (10) calendar days prior to the date of the settlement conference. In the event one of the parties wanted to request that the settlement conference be vacated or rescheduled, the original Order provided that a motion to vacate or reschedule must be filed no later than 14 days prior to the date of the settlement conference. On August 7 or August 8, 2012, Kathryn Levy, counsel for the Defendant, contacted my chambers and advised chambers that she was in a trial

before the Honorable Daniel Schneider in the matter of *Archuleta et al v. City of Albuquerque et al*, Civ. No. 07-612 WDS/KBM, and requested that the settlement conference be vacated.

Counsel for Defendants represented that she had spoken to opposing counsel and that counsel for the Plaintiff did not object to vacating the settlement conference. A letter was faxed to my attention on August 8, 2012, confirming Ms. Levy's request that the settlement conference be vacated.

As a result of Ms. Levy's request, the Court entered a docket entry on August 8, 2012, vacating the August 9, 2012, settlement conference and scheduling a telephonic Rule 16 Status Conference for 2:30 p.m. on August 13, 2012. A copy of the docket entry was sent to Ms. Levy electronically by the clerk's office at klevy@cabq.gov. Copies of the docket entry were also sent to J. R. Rodriguez and S. Jamison at the same e-mail address. Subsequently, neither Ms. Levy nor anyone else from the City appeared for the telephonic Rule 16 Status Conference at 2:30 p.m. on August 13, 2012. As a result, the Court's first Order to Show Cause was entered on August 14, 2012 (Doc. No. 36) scheduling a show cause hearing for 1:30 p.m. on August 15, 2012, in the Gila Courtroom. An Amended Order to Show Cause was filed on August 14, 2012, (Doc. No. 37) changing the location of the hearing from the Gila Courtroom to the Pecos Courtroom. Both the Order to Show Cause and the Amended Order to Show Cause were sent electronically to Ms. Levy at the e-mail address referred to above. Copies were also sent to J. R. Rodriguez and S. Jamison at the same e-mail address.

Neither Ms. Levy nor anyone else from the City appeared for the hearing on the Order to Show Cause at 1:30 p.m. on August 15, 2012, in the Pecos Courtroom. Ms. Levy could not be reached by telephone and we could not locate her in the courthouse. As result, the Court is entering this Second Order to Show Cause.

A hearing on both the first Order to Show Cause (Doc. No. 33) and this Second Order to Show Cause will be scheduled for **Thursday, August 23, 2012, at 1:30 p.m. in the Cimarron Courtroom (fifth floor)**. City Attorney David Tourek must also attend the hearing. In addition, counsel for the Plaintiff must attend the hearing on the Order to Show Cause so that the Court can discuss the Joint Motion to Extend Deadlines for Discovery, Discovery Motions, and Response to Plaintiff's Motion to Compel (Doc. No. 34) filed on August 14, 2012.

IT IS SO ORDERED.



ALAN C. TORGERSON
United States Magistrate Judge